

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1882

IN THE MATTER OF:

Served September 19, 1978

Application of DAVID C. PEARSON )  
T/A E & H TRANSPORTATION COMPANY )  
for Temporary Authority to Perform )  
Charter Operations Pursuant to )  
Contract - Southeast Neighborhood )  
House )

Case No. AP-78-28

By application filed August 24, 1978, David C. Pearson, a sole proprietor, trading as E & H Transportation Company, seeks temporary authority to transport passengers, in charter operations pursuant to contract with the Southeast Neighborhood House, from points in the District of Columbia to the Southeast Neighborhood House, 1225 Maple View Place, S. E., Washington, D. C., and return. Pearson would transport approximately 20 persons a day in a 10-passenger van for the contract price of \$1,200 a month. The applicant holds Certificate No. 53 from this Commission authorizing the non-emergency transportation of persons confined to wheelchairs and participating in the medicaid program administered by the Department of Human Resources of the District of Columbia. Pearson asserts that he is unaware of any other carrier certificated to perform the subject service.

In support of the application, the Southeast Neighborhood House states that it operates a geriatric day care facility and requires daily transportation of its clients to and from the above-specified address. Pearson has been transporting approximately 20 of these clients each day, and it is asserted by the Southeast Neighborhood House that the program would "probably shut down" if adequate transportation were not available.

Both Beltway Limousine Service, Inc., and Executive Limousine Service, Inc., hold authority commensurate with that sought herein. Both carriers were notified by the staff of the nature of this application and no protests thereto have been filed.

The Compact, Title II, Article XII, Section 4(d)(3) provides that the Commission may grant temporary authority, in its discretion and without hearings or other proceedings, for up to 180 days when it finds an immediate and urgent need for service and no carrier capable of meeting such need. Based upon the evidence of record, we find that these criteria have been met and that the application should be granted, subject to certain conditions.

One further point requires discussion. Pearson has been transporting passengers for the Southeast Neighborhood House without appropriate authority. In Order No. 1749, served September 16, 1977, Pearson was advised, inter alia, to familiarize himself with the requirements of the law relating to the transportation for hire of passengers and to avoid future violations. While we will not hold Pearson's apparent disregard for this admonition to be a bar to granting temporary authority, the issue of applicant's fitness to comply with pertinent regulatory requirements shall be fully explored in connection with any application for permanent authority. Fitness is, of course, at issue in a temporary authority proceeding, but is weighed in light of the need for service. A finding of unfitness in a permanent authority proceeding, however, would necessitate denial of that application and could warrant revocation of an outstanding certificate.

THEREFORE, IT IS ORDERED:

1. That David C. Pearson trading as E & H Transportation Company is hereby granted temporary authority to transport passengers, in charter operations pursuant to a written contract with Southeast Neighborhood House, from points in the District of Columbia to Southeast Neighborhood House, 1225 Maple View Place, S. E., Washington, D. C., and return, restricted to service performed in vehicles with a seating capacity for 15 persons or less (including the driver).

2. That applicant is hereby directed to file with the Commission an original and one copy each of (a) its WMATC Temporary Authority Tariff No. 1 in accordance with Commission Regulation No. 55, (b) an executed contract between the carrier and Southeast Neighborhood House, and (c) an affidavit of compliance by applicant with Commission Regulation 68-03 governing identification of vehicles operated pursuant to temporary authority, no later than 10 days from the date of service of this order.

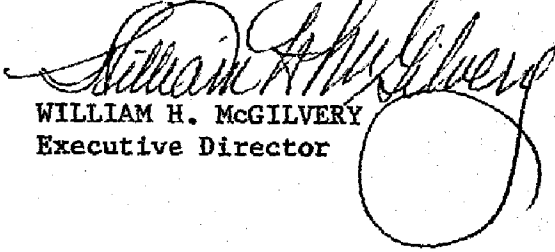
3. That upon compliance with the directives set forth above, the temporary authority granted herein shall become effective on September 29, 1978, and shall continue in effect for 180 days through March 27, 1979, unless otherwise ordered by the Commission.

4. That unless applicant fully complies with the directives set forth above within 10 days or such additional time as may be granted by the Commission, the grant of temporary authority herein shall be considered null and void, and the application shall stand denied in its entirety effective upon the expiration of the time for compliance.

5. That applicant shall file its application for a corresponding

certificate of public convenience and necessity not later than 30 days after the date of this order.

BY DIRECTION OF THE COMMISSION:

  
WILLIAM H. MCGILVERY  
Executive Director